

Report of the ECAS Conference “Getting European Citizens’ Initiatives Started”

17 March 2011
Delegation of Saxony Anhalt to the EU
Boulevard Saint Michel 80
Brussels

In welcoming participants, **Tony Venables**, ECAS Director and **Elisabeth Victoria Lasky**, coordinator for the European Civil Society House project thanked the delegation of Saxony Anhalt for hosting the event. **Klaus Klang** from the Ministry of the Interior of Saxony-Anhalt also welcomed participants. He would be responsible for the procedures for citizens’ initiatives in the region. The regional dimension, which had so far been ignored, should be considered more actively now that the regulation was adopted.

The conference programme is attached in the annex¹. The event attracted 200 participants from civil society, the EU Institutions, academia and organisations specialised in communication, petitioning websites and direct democracy. This report does not attempt to report on everything that was said in the debates and four working groups. The approach is more thematic following the wish expressed by a number of participants that this event could be built on by others which would follow such as the European Citizens’ Initiative summit to be held on 6-7 May 2011 in Vienna.

The report is divided in 5 sections:

- (i) Opening session and general points;
- (ii) How to ensure that the Commission accepts it has the power to act under the Treaties?
- (iii) How to campaign for a successful European citizens’ initiative?
- (iv) How to ensure compliance with the regulation?
- (v) What could be the long-term impact of ECI?

¹ The regulation, the ECAS Briefing Note as well as other contributions by speakers and papers referred to in this briefing note can be found at <http://www.ecas-citizens.eu/content/view/375/280/>

(I) OPENING SESSION AND GENERAL POINTS

Diana Wallis (Vice-president of the European Parliament; MEP, ALDE, co-rapporteur for the Petition's Committee on European Citizens' Initiatives) noted that this event was the first serious event looking at the European Citizens' initiatives since the publication of the Regulation. She was pleased to see that it was supported by the Rowntree Charitable Trust from her own constituency in York. At previous events the debate was theoretical - now the Regulation has been published there was something tangible to work with.

The Regulation marks a big step for the next few years of democracy; they could be the years of Parliament and the people. There is a need to do more to involve European citizens in the legislative process and the ECI will be doing exactly that. The ECI puts power into the hands of the people.

The Parliamentary process for the drafting of the regulation was a unique one which took four MEPs from different parties to act as rapporteurs. The main aim of the Parliament was to make the ECI user friendly; not for MEPs or big NGO's but for citizens. Ms. Wallis ended her speech by stating that there were still many questions on Citizens initiatives that needed to be answered.

OPENING PLENARY SESSION – DOES THE REGULATION LIVE UP TO EXPECTATIONS?

Gerald Häfner (MEP, the Greens – EFA; co-rapporteur for the Petitions' Committee on European Citizens' Initiatives) referred to the revolutions spreading across the Middle East and Africa noting that this shows how everything is a question of democracy. We have the power in the citizens' initiative to influence democracy and make important choices. Therefore we need to make sure this power is used. The European citizens' initiative brings together participatory and representative democracy in Europe.

He stressed the requirement of some countries to provide I.D. numbers. As rapporteur when the Council came back with some countries requiring I.D. numbers he took the initiative to contact the relevant ministry in Germany to persuade them to change their mind. The process was very long and it took a while before it was possible to find the correct department in charge, but once it was explained why it was not necessary for ID numbers to be provided, Germany dropped the requirement. However, it was not possible to do this with all countries. Hence there is still the requirement for 18 out of 27 Member States.

The requirement for ID numbers and other non-essential information could hamper the collection of signatures. The European Parliament wanted minimum data to be collected so as to not put individuals off signing an initiative. People will be wary of giving out such data for security reasons but also as they would not want to create a political profile based upon the causes they were signing up to.

Mário Tenreiro (Head of Unit, Institutional Issues, Secretary General, European Commission) stressed that it will be necessary to wait and see if the ECI and regulation lives up to expectations before a concrete analysis can be made. For now, what must be achieved is a balance which fine tunes the process of ECIs. This balance must be struck between the European Commission and the role of the Member State, with particular regard to signature requirements.

What are the expectations? It must be made clear that the Commission is not obliged to act and that the ECI cannot be used to make political attacks, such as being used as part of a political campaign. It was for this reason that MEPs are not allowed to be on a citizens committee.

Bruno Kaufmann (President, Initiative and Referendum Institute Europe) started by making the point that the European Citizens' Initiative is a very democratic tool. Introduced by the Lisbon treaty, which aimed to create an idea of European democracy, the process of implementation was taken very seriously.

As **a tool** to enforce your rights as a European Citizen the ECI must not be confused with a petition. People must be aware of what the ECI is and what it is not. The **legislation** is there to provide a clear framework on how to use the citizens' initiative. This does not mean this framework is complete. There is a lot to be left to interpretation which provides flexibility, but to some extent uncertainty. Following this, **the needs** of those using the ECI need to be considered and the European institutions should work with the Member States to see what still is to be done.

Mr. Kaufmann then addressed three requests to the European Commission, the Member States and other organisations. The Commission must put more manpower behind the ECI, as at the moment there are only two full time staff which is not enough. The Commission and Member States must work on information campaigns and promote the ECI. Civil Society organisations need to contribute to the process in some way and do their bit to ensure this tool is used.

Following this, other speakers and participants identified the strong points and weaknesses. For **Carsten Berg** (Director, ECI campaign, Democracy International) there had been good collaboration between civil society organisations, MEPs and European officials, but it had been proved much more difficult to influence national civil servants. Positive points were: lowering the numbers of signatures required for each country, the last minute addition of the public hearing, for example. This view was not so different from that of **Marc Pecsteen** (Director European Affairs, Office of the Minister for Development Cooperation, in charge of European Affairs, Belgian Presidency of the EU) who gave some insights into the important role played by the Belgian Presidency. There was political pressure to reach agreement within one year of the entry into force of the Lisbon Treaty, and this did not have enough time. In the end, there was good cooperation in informal meetings, but the text was not perfect. The European Parliament pushed for the regulation to be user-friendly and had good ideas such as the citizens' committee, whereas Member States were more concerned about issues of control, hence only Belgium like Germany removed the ID requirement.

Emphasis was placed by the MEPs and other speakers at the opening session on what could be improved now and what would have to wait for the revision in 3 years' time:

- **Bringing about genuine citizens' initiatives.** For a number of speakers such as **Paolo Ponzano** (Research Fellow, European University Institute) only powerful lobbies and big organisations would be able to collect 1 million signatures, which made support for genuine citizens' initiatives vital if this instrument was to succeed. It was pointed out that there could be more resources in the Commission since not only the department responsible for registering an initiative was involved but also the one responsible for content, therefore the need for a helpdesk. Some speakers such as **Michaela Glöckler** (Aktion Eliant) raised the question of what support would be offered. There needs to be legal advice given from the European Commission and the institutions with a helpdesk for practical and technical questions. A website or newsletter with monthly updates would need to be provided to keep everyone informed. National helpdesks and contact points would also need to provide support to the organisations of an ECI. Another point

was that translation should be supported. What should be done by the Institutions and what by civil society ought to be clarified during this preparatory year to support the first initiatives launched on 1 April 2012.

- **The ID requirement** should be dropped by more countries before the revision in 3 years because it was included in the annex which was easier to change. But not all changes were positive: for example more Member States had added the full address of the person signing in addition to the ID number. This was part of the compromise achieved by the Belgian Presidency.
- **User-friendly software.** For its part, the Commission was concentrating on creating the user friendly software for on-line signatures which could also be printed off for paper signatures and which adapted automatically to different national requirements.
- **The time-scale of 12 months** which the ECI campaign and other experts regarded as too short could only be extended to 18 or 24 months after 3 years. In the meantime, organisers should start planning their initiatives well before the clock started to tick giving them only one year. Examples were given of petitions websites on which initiatives could be tested before their official launch. Organisers really needed more support in the testing, preparatory phase.
- **Clarification of who could sign a citizens' initiative.** Despite the regulation and the arrangements put in place there could be some problems. Normally there should be no difficulty for a European citizen living in another member state to sign, but what if he or she lived outside the Union? Gerald Häfner pointed out that a more difficult issue was the exclusion in article 11 and the regulation of third country nationals legally resident in the Union since both the Treaty and the legislation limited the right of initiative to European citizens.

(II) HOW TO ENSURE THAT THE COMMISSION ACCEPTS IT HAS THE POWER TO ACT UNDER THE TREATIES?

There was an interesting paper presented by **Paolo Ponzano**² and published by the European University of Florence. This approach inspired the briefing note on the regulation by ECAS to conclude with optimism that where an initiative was within EU competence, the Commission would be likely to act. Paolo Ponzano demonstrated this in his paper on the basis of precedents where the Commission had accepted initiatives from the European Parliament or interest groups. In the working group there was much discussion about the meeting of registering an initiative if it “does not fall *manifestly* [italics added] outside” the powers of the Commission. Was this just to make it easier to register an initiative without it being checked by the legal service? Whilst therefore agreeing broadly that it would be very difficult for the Commission to ignore over 1 million signatures, there was also the difficulty of being able to assert this with complete certainty.

² PONZANO, P. (2010) “A million citizens can request European legislation: a *sui generis* right of initiative”. Available at <http://www.ecas-citizens.eu/content/view/375/280/>

The Commission was not obliged to act and in the absence of a political debate so far in the college of Commissioners it was difficult to know whether the Institution gave the same weight to initiatives from citizens as to those from the European Parliament and the Council. Since the Commission was free to decide, in case of refusal, appeal to the European ombudsman or the European Court of Justice would only be on procedural grounds (i.e. that the proposal had been incorrectly examined). On the other hand, a rejected initiative might be taken up by the European Parliament which could make it its own, or during the European election campaign, some initiatives might be explicitly supported by different political parties.

Certainly organisers of citizens' initiatives should be advised on legal issues by the Commission, but would also need independent legal advice. Advice could also differ: some concluded from this debate that organisers of citizens' initiatives should not count on being able to move the borders of the competence of the Commission, and should avoid subjects only half covered by its legal competence. They should also seek a dialogue with the Commission on the legal and political dimension. On the other hand, in the final session of the conference **Andrew Duff** (MEP, ALDE) defended the idea of using ECI's to test the boundaries of EU competence and propose "light" Treaty revisions. In the Convention on the future of Europe, it had been thought that ECI's could be used to propose Treaty revisions.

(III) HOW TO CAMPAIGN FOR A SUCCESSFUL EUROPEAN CITIZENS' INITIATIVE?

Of more than 20 European initiatives already tried even before a draft regulation existed, only 5 passed the 1 million threshold and did not necessarily meet the new requirements in terms of length of time and procedures for signatures. Reaction by the Commission had also been mixed. Three examples were presented:

- **Michaela Glöckler** – Organiser of the Initiative for Applied Anthroposophy, Aktion Eliant
- **Alexander Alvaro** – MEP, Organiser of the One-Seat Campaign
- **Erzsébet Földesi** – Vice president of EDF, Organiser of the European Disability Forum Initiative, European Disability Forum

The first was about eliminating artificial vitamins from baby food. It took three years to get 1 million signatures worldwide from 164 countries at a total cost of around 800,000 euros.

The second was completely different – about moving the European Parliament to Brussels to achieve one seat for the Institutions and avoid the "travelling circus". 1.2 million signatures were gathered in 3 months. This was done through a simple on-line website with the only requirement of an email address and name, far less than the requirement of the regulation. Mr. Alvaro made the point that everything depends on the topic: this was a popular one on which it was easy to gather signatures.

The third by the European Disability Forum calling for EU rules to end discrimination on the grounds of disability involved collecting 1 million signatures in 9 months. Contrary to the One-Seat Campaign, only 200,000 signatures were collected on-line. This shows that with

enough work it is possible to reach people, provided there is a long established and well-structured network³.

The examples presented showed that there are different experiences with signature collection. This became a main theme of the workshop chaired by **Gerry Salole** (chief executive of the European Foundation Centre). **Andrea Albertazzi** (CGIL) speaking from a trade union perspective stressed the value of debate and democratic participation which citizens' initiatives should encourage. Only an on-line campaign, or as another participant put it, just people pushing a button, was not the answer. Others pointed to the role of the internet in allowing people to express themselves without control, as shown in the democratic movements in North Africa, for example. It could no longer be said that a signature in the street is better and more important than a signature on-line. With only 12 months to collect signatures, an on-line campaign is a faster way to get support.

In the end **Daniel Van Lerberghe** (funder, Polytech foundation) concluded that a **multi-media approach is needed and that social networks and face-to-face debates are complementary**.

It was agreed though that there was a difference between “can we get the signatures?” and “can we get people involved and agreeing with our campaign?” There was a consensus that for a successful ECI with enough real popular support behind it, the second question was the relevant one. Reconnecting people to the EU and genuine democratic participation meant considerable effort and alliances of civil society organizations to overcome gaps between North and South or between new and old Member States and the objectives of a European umbrella organization and how the issue is perceived on the ground. There had to be a bottom-up approach well-prepared before the actual registration of the initiative. Even if the initiative was successful, there would also have to be sufficient commitment and support to follow it up afterwards, since there could be changes brought about by the Institutions, for which the organisers could be blamed.

(IV) HOW TO ENSURE COMPLIANCE WITH THE REGULATION?

In the opening sessions of the conference and in particular during the workshop chaired by **Bruno Kaufmann**, there was discussion of a number of factors which in reality made it difficult to foresee how European citizens' initiatives would work out in practice. These difficulties sprang from the fact that there was a European regulation, but contact points and verification systems had to be set up by Member States which had varying degrees of experience or none at all with such instruments and different traditions from checking every signature to checking a sample. There were also different levels of civil engagement across the Union. Most of the unknown factors came from this mix of a European regime and national rules. The following factors were highlighted:

³ More information and a video about the last initiative are on the ECAS website: <http://www.ecas-citizens.eu/content/view/375/280/>

- The starting points of the Member States were so different, a point highlighted by **Assya Kavrakova** (Director, Open Society Institute, Bulgaria) based on her experience in a post-communist country with little experience of such democratic practices and where trust in the EU was high. In other countries, the picture could be quite different.
- A point made by **Bruno Kaufmann** was that a certain tension existed between the objectives of democratic participation and those of data protection since privacy had to be protected and signatures could only be used for the purposes of the initiative itself. This meant fewer gains for organizers looking for support for their initiative or others.
- Issues of compliance were in a grey zone, since it was difficult for national contact points to spot multiple electronic signatures by the same person or fraudulent signatures. There was therefore a heavy responsibility on organizers who were liable to fines. What were their liabilities exactly and where could they turn to for help and legal advice to meet data protection requirements?

Such issues were added to the costs of meeting the difficult target of collecting a million signatures within the space of one year and could be a deterrent to organizers unless they were clarified. The Commission response was that they were establishing a single open source European system, adapted to different national requirements, for collecting signatures and that they would publish a guide to the regulation before the summer of 2011.

Given the different starting points of Member States and many open questions about compliance, **Bruno Kaufmann** concluded that **civil society and experts have an extremely important monitoring and watchdog function** alongside their role of providing legal and other forms of support to organizers.

(V) WHAT COULD BE THE LONG-TERM IMPACT OF EUROPEAN CITIZENS' INITIATIVES?

For the workshop which considered this theme, **Janice Thompson** (INVOLVE) had submitted an analysis of plan D and the EU attempts which had not succeeded so far to create a European public sphere – only artificial public spaces. In this context came ECI which was an agenda setting instrument and therefore only part of the solution, but which created a real as opposed to an artificial space for citizens. In reality, this was a change and there was hidden or coded opposition to real citizen friendly involvement. This was a line of argument which the other speakers **Piotr Kaczyński** (CEPS) and **Johannes Pichler** (University of Graz) also developed pointing in particular to the real danger of ECIs becoming counterproductive if the Commission did not act on them, given the absence of alternatives. They were pessimistic about the chances of success unless there was a real change of political mindset by the Commissioners: the ECIs could be an involvement disaster and a communication disaster. **Piotr Kaczyński** pointed out that a big organization could follow up an ECI, but if it is one from a few citizens or an ad hoc alliance they would not have the energy and money after their first success to do so. **Andrew Duff** was less pessimistic

pointing out that the practice of hearings had been forced on the Commission, which could be in the European context a very creative instrument. On the other hand, in an already “congested political circus” something else, potentially very important was being added to the mix.

It did not appear possible to reach a consensus about the possible long-term impact of ECI. Opinion was divided on the likelihood of the Commission acting or refusing to do so. **Much depended on the first initiative and the response to them. If ECIs were to bring about a real change in administrative culture**, rather than being an exceptional add-on to the normal decision-making process, **it was suggested that there would have to be a critical mass of initiatives across different policy areas. They could not, however, work on their own: other reforms should accompany them on the basis of article 11 of the Lisbon Treaty to develop a European participatory democracy.**

In the **conclusion of the conference**, **Tony Venables** on behalf of ECAS suggested that the **preparatory year before citizens’ initiatives started on 1 April should be used to convince the European Commission to undertake a communication campaign to inform citizens of their new rights.** The preparatory phase should also be used to both convince the Institutions to provide a supportive infrastructure, whilst examining what could be done by an independent civil society helpdesk to monitor and provide legal advice as well as support to prepare initiatives and ensure that they met the requirements of the regulation. The conference also showed that much still had to be done by Member States to set up national contact points and that there was still scope to simplify the procedures in the annex to the regulation, and for more Member States to drop the ID requirement for example.

Three main objectives followed naturally from an event which had been rich in interaction, debate and new ideas:

- **Keep together the civil society community of interest on ECIs** which had been created round the consultative process leading up to the adoption of the regulation on how it should be applied and the first initiatives supported.
- **Maintain the good standard of dialogue with the EU Institutions** with an invitation to the Commission together with the European Parliament rapporteurs to convene a meeting with civil society organizers and potential users of ECIs in autumn 2011.
- **Work on how to bring together a multi-organisational and multi-functional team to support those intending to launch citizens’ initiatives.** Follow-up the proposal that the whole process of implementation and the first initiatives should be evaluated and monitored.